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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,000	09/25/2003	Boris Belyi	1DATA.043A	4525
29995 7590 03/26/2008 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER FU, HAO				
ART UNIT 3696		PAPER NUMBER		
NOTIFICATION DATE 03/26/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
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# Office Action Summary

## Application No.

10/671,000

## Applicant(s)

BELYI ET AL.

## Examiner

HAO FU

## Art Unit

3696

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/US)  
Paper No(s)/Mail Date 01/17/2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Argument***

Applicant's only argument is that the prior arts do not teach the added feature obtaining additional merchant parameters, including the merchant's transaction history with the customer as in the amended claims. Examiner agrees with the applicant, and additional prior arts are provided in the new Office Action. Melchior et al. teaches calculating risk based upon individual transactions as well as the transaction history between the buyer and the seller. Templeton et al. filed an improved version (Pub. No.: US 2003/0130919) of the original invention (US Patent Number 5,679,940), which also discloses considering merchant's transaction history with the customer when evaluating the risk of accepting proffering check. Both prior arts imply that the merchant's transaction history with the customer must be obtained somehow in order to complete the process of scoring.

No argument regarding to the dependent claims is mentioned.

### ***Claim Rejection – USC 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-9, 11-15, 17-19, 22-37, and 41-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 5,679,940 to Templeton et al

Art Unit: 3694

(hereinafter "Templeton"), in view of Templeton et al. (Pub. No.; US 2003/0130919) and Melchior et al. (Pub. No.: US 2002/0178021).

As per claim 1, Templeton teaches a system for assessing risk in financial transactions wherein a customer is purchasing goods or services from a merchant and is proffering payment for the goods or services using a non-cash payment device, the system comprising (see abstract):

a distributed network of point of sale devices that are distributed throughout a plurality of merchant locations, wherein the point of sale devices are configured to collect and transmit transaction information about the transaction and the proffered payment (see abstract, and column 4, line 8-24, line 32-35, line 39-42; transaction terminal is point of sale device) and are further configured to display requests to the merchant to provide identification information (see abstract, and column 4, line 27-32, and column 5, line 21-34, and column 13, line 28-30, and column 29, line 53-57) and to allow the merchant to transmit identification information via the point of sale device (see abstract, and column 4, line 32-35, and column 29, line 57-65); and

a risk assessment engine (see abstract, the "host computer/system" contains a risk assessment engine) that receives the transmitted transaction information (see column 4, line 20-23; the "transaction packet" contains transaction information), evaluates the transmitted transaction information, and determines whether the proffered payment for the goods or services via the non-cash payment device should be accepted or declined (see column 4, line 35-38, and column 11, line 12-17), wherein the risk assessment engine provides a signal indicative of the acceptance or decline to the merchant via the distributed network of point of sale devices (see column 7, line 54-58, and column 11, line 35-42, and column 24, line 61-66), and wherein the risk assessment engine requests additional identification information from the merchant at the point of sale device when the evaluation of the transmitted transaction information indicates that the proffered payment has a risk greater than a pre-selected threshold (see column 5, line 7-28, and column 11, line 35-39, and column 14, line 15-27, and column 19, line 35-44, and column 30, line 29-34) so as to further determine whether to accept or decline the proffered payment (see column 5, line 21-34, and column 14, line 15-27).

Examiner notes however, Templeton does not explicitly teach obtaining additional merchant parameters, including the merchant's transaction history with the customer.

Art Unit: 3694

Templeton (2003/0130919) teaches considering merchant's transaction history with the customer when evaluating the risk of accepting a proffering check (see claim 11 and 29).

Melchior also teaches calculating risk based upon individual transactions as well as the transaction history between the buyer and the seller (see paragraph 0009).

Both prior arts imply that the merchant's transaction history with the customer must be obtained somehow in order to complete the process of scoring.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include the obtaining additional merchant parameters, including the merchant's transaction history with the customer.

One of ordinary skill in the art would have been motivated to modify the reference in order to improve risk scoring.

As per claim 2, Templeton teaches wherein the non-cash payment device comprises a payment by check, wherein the risk assessment engine evaluates the risk of accepting the check (see abstract, and column 4, line 8-38).

As per claim 3, Templeton teaches wherein the transmitted transaction information comprises at least one of the check amount, an identification of the merchant, and check identification information (see column 4, line 59-67, and column 10, line 59-67, and column 11, line 1-8).

As per claim 4, Templeton teaches wherein the check identification information comprises a MICR code from the check (see column 4, line 59-67, and column 5, line 50-55, and column 10, line 63-65).

As per claim 5, Templeton teaches wherein the additional identification information requested by the risk assessment engine comprises information that identifies the customer so as to facilitate collection on the check (see column 7, line 43-58, and column 8, line 41-53, and column 14, line 15-36, and column 23, line 9-25).

As per claim 6, Templeton teaches further comprising a database, wherein the transmitted transaction information and the additional identification information is stored in the database to facilitate subsequent collection on the check from the customer in the event that payment is not made on the check (see column 13, line 18-57; Templeton teaches that the transmitted transaction information and the additional identification information are stored in either negative file or positive file, and it is implied that these files are stored in a database).

As per claim 7, Templeton teaches wherein the additional identification information is the customer's telephone number (see column 14, line 15-39).

As per claim 8, Templeton teaches wherein the risk assessment engine determines whether the additional identification information corresponds to the check

Art Unit: 3694

identification information in determining whether to accept or decline the proffered payment following receipt of the additional identification information (see column 2, line 51-67, and column 4, line 32-38, and column 30, line 46-53, column 23, line 8-25; Templeton teaches that checking account number, check sequence number, and the amount of check are sent to risk assessment engine; these information are check identification information; by analyzing the customer identification information against the check identification information, the risk assessment engine could generate score indicating whether the additional identification information corresponds to the check identification information; and the outcome will affect the overall determination of whether accepting or declining the payment. Furthermore, column 20, line 34-42 teaches that Templeton's invention can use any conventional processing algorithms to determine whether to accept or decline the proffered payment. Verifying whether additional identification information corresponds to check identification information is a conventional processing algorithms to one of ordinary skill in the art).

As per claim 9, Templeton teaches wherein the risk assessment engine determines whether the additional identification information identifies a customer that is authorized to write checks on the account corresponding to the check (see column 12, line 60-63, and column 14, line 33-39, and column 30, line 46-53; Templeton teaches verifying the check writer is the same person as the person whom the check belongs to, it is essentially the same as identifying whether a customer is authorized to write checks on the account corresponding to the check).

As per claim 13, Templeton teaches wherein a customer purchases merchandise or services from a merchant at a point of sale and proffers a payment in exchange for the merchandise or services (see abstract), the system comprising:

an interactive device positioned at the point of sale (see abstract, and column 4, line 8-24, line 32-35, line 39-42; "transaction terminal" is an interactive device positioned at the POS), wherein the interactive device interacts with the merchant at the point of sale by displaying messages in a manner so as to facilitate collection and transmission of information relating to the financial transaction including information about the proffered payment (see abstract, and column 4, line 8-24, line 32-35, line 39-42 line 27-32, and column 5, line 46-50), and wherein the interactive device transmits information indicative of the merchant and the proffered payment (see abstract, and column 4, line 32-35, and column 29, line 57-65); and

an authorization component that receives the transmitted information (see abstract, the "host computer/system" contains a risk assessment engine, and column 4, line 20-23; the "transaction packet" contains transaction information), generates a risk assessment based at least in part on the transmitted information (see column 4, line 35-38, and column 11, line 12-17), and determines from the risk assessment whether to approve or decline the financial transaction in a manner so as to provide a signal indicative thereof to the merchant via the interactive device (see column 7, line 54-58,

Art Unit: 3694

and column 11, line 35-42, and column 24, line 61-66), and wherein the authorization component requests additional information relating to the financial transaction from the merchant at the point of sale via the interactive device when the risk assessment indicates that the financial transaction is of moderate risk (see column 5, line 7-28, and column 11, line 35-39, and column 14, line 15-27, and column 19, line 35-44, and column 30, line 29-34) so as to further determine whether to accept or decline the financial transaction (see column 5, line 21-34, and column 14, line 15-27).

Examiner notes however, Templeton does not explicitly teach obtaining additional merchant parameters, including the merchant's transaction history with the customer.

Art Unit: 3694

Templeton (2003/0130919) teaches considering merchant's transaction history with the customer when evaluating the risk of accepting a proffering check (see claim 11 and 29).

Melchior also teaches calculating risk based upon individual transactions as well as the transaction history between the buyer and the seller (see paragraph 0009).

Both prior arts imply that the merchant's transaction history with the customer must be obtained somehow in order to complete the process of scoring.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include the obtaining additional merchant parameters, including the merchant's transaction history with the customer.

One of ordinary skill in the art would have been motivated to modify the reference in order to improve risk scoring.

As per claim 14, Templeton teaches wherein the authorization component notifies the merchant by displaying a request for additional information on the interactive device prior to authorizing the financial transaction (see abstract, and column 4, line 27-32, and column 5, line 21-34, and column 13, line 28-30, and column 29, line 53-57).

Claim 15 is rejected for the same reasoning as in claim 2.

As per claim 17, Templeton teaches wherein the information is transmitted electronically through a computer network (see column 12, line 28-42).

Claim 18 is rejected for the same reasoning as in claim 3.

As per claim 19, Templeton teaches wherein the payment identification information includes a MICR code of the payment (see column 4, line 59-57, and column 10, line 59-67).

Claim 22 is rejected for the same reasoning as in claim 8, and the "host computer/system" contains the authorization component.

Claim 23 is rejected for the same reasoning as in claim 9, and the "host computer/system" contains the authorization component.

As per claim 24, Templeton teaches wherein the personal identification information is selected from the group consisting of the customer's telephone number, the customer's mother's maiden name, the customer's place of residence, the customer's zip code, the customer's driver's license number, and a personal identification number (PIN) (see column 9, line 60-63, and column 11, line 1-3, and column 14, line 40-43, and column 16, line 50-53; Templeton mentions PIN number pad, which implies that PIN is used as personal identification number).

Claim 25 is rejected for the same reasoning as in claim 6.



Art Unit: 3694

As per claim 26, Templeton teaches wherein the interactive device comprises at least one of a display monitor, a key input device, a printer, a magnetic card reader, and a magnetic check reader (see column 15, line 9-67)

As per claim 27, Templeton teaches wherein the signal is a message notifying the merchant to approve or decline the financial transaction (see column 4, line 35-42).

As per claim 28, Templeton teaches a system for authorizing a financial transaction, wherein a non-cash payment is exchanged for goods and services (see abstract), the system comprising: a merchant location comprising at least one interactive POS device (see abstract), whereby messages can be displayed on the at least one interactive POS device prompting collection and transmission of transaction information relating to the financial transaction including information about the non-cash payment (see abstract, and column 4, line 8-24, line 32-35, line 39-42 line 27-32, and column 5, line 46-50);

a risk assessment component that generates at least one risk score based at least in part on the transmitted information (see abstract, "host computer/system" contains a risk assessment component, and see column 5, 1-34), wherein the risk assessment component determines from the at least one risk score whether to approve or decline the financial transaction in a manner (see column 5, 1-34) so as to provide a signal indicative thereof to the merchant location via the at least one interactive POS device (see column 7, line 54-58, and column 11, line 35-42, and column 24, line 61-66); and

an interactive processing component associated with the risk assessment component (see abstract, "host computer/system" have both the function of interactive processing component and risk assessment component) that determines if additional information relating to the financial transaction is needed prior to authorization of the financial transaction (see column 5, line 1-34, and column 19, line 35-46), wherein the interactive processing component transmits a request for additional information to the merchant location via the interactive POS device in a manner so as to display the request on the interactive POS device (see column 24, line 61-57, and column 29, line 53-65) when the at least one generated risk score is greater than a pre-selected threshold so that the risk assessment component can use the additional information to further determine whether to approve or decline the financial transaction (see column 5, line 7-28, and column 11, line 35-39, and column 14, line 15-27, and column 19, line 35-44, and column 30, line 29-34, and see column 5, line 21-34, and column 14, line 15-27).

Examiner notes however, Templeton does not explicitly teach obtaining additional merchant parameters, including the merchant's transaction history with the customer.

Art Unit: 3694

Templeton (2003/0130919) teaches considering merchant's transaction history with the customer when evaluating the risk of accepting a proffering check (see claim 11 and 29).

Melchior also teaches calculating risk based upon individual transactions as well as the transaction history between the buyer and the seller (see paragraph 0009).

Both prior arts imply that the merchant's transaction history with the customer must be obtained somehow in order to complete the process of scoring.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include the obtaining additional merchant parameters, including the merchant's transaction history with the customer. One of ordinary skill in the art would have been motivated to modify the reference in order to improve risk scoring.

As per claim 29, Templeton teaches wherein the merchant location transmits the additional information relating to the financial transaction to the risk assessment component after receiving the request for additional information (see column 6, line 63-67, and column 20, line 60-64).

Claim 30 is rejected for the same reasoning as in claim 2.

Claim 31 is rejected for the same reasoning as in claim 3.

Claim 32 is rejected for the same reasoning as in claim 4.

Claim 33 is rejected for the same reasoning as in claim 8.

Claim 34 is rejected for the same reasoning as in claim 9.

Claim 35 is rejected for the same reasoning as in claim 5.

Claim 36 is rejected for the same reasoning as in claim 6.

Claim 37 is rejected for the same reasoning as in claim 7.

As per claim 41, Templeton teaches a method of assessing risk in financial transactions, wherein goods or services are being purchased by a customer from a merchant by the customer proffering a promissory payment (see abstract), the method comprising:

(i) transmitting transactional information about the proffered payment and the merchant to a risk assessment component (see abstract, and column 4, line 8-24, line 32-35, line 39-42, "host computer/system" contains risk assessment component);

Art Unit: 3694

(ii) evaluating the proffered payment to assess the risk of accepting the proffered payment as payment for the goods or services (see column 4, line 35-38, and column 11, line 12-17);

(iii) transmitting an acceptance or decline decision to the merchant following the evaluation of the proffered payment to advise the merchant whether to accept the proffered payment (see column 7, line 54-58, and column 11, line 35-42, and column 24, line 61-66);

(v) requesting additional information from the merchant when the evaluation of the proffered payment indicates that the risk of accepting the payment falls within the moderate risk category (see column 19, line 35-59); and

(vi) transmitting the additional information in response to the request of act (iv) (see column 4, line 51-54).

Examiner notes however, Templeton does not explicitly teach (v) obtaining additional merchant parameters, including the merchant's transaction history with the customer.

Art Unit: 3694

Templeton (2003/0130919) teaches considering merchant's transaction history with the customer when evaluating the risk of accepting a proffering check (see claim 11 and 29).

Melchior also teaches calculating risk based upon individual transactions as well as the transaction history between the buyer and the seller (see paragraph 0009).

Both prior arts imply that the merchant's transaction history with the customer must be obtained somehow in order to complete the process of scoring.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include the obtaining additional merchant parameters, including the merchant's transaction history with the customer.

One of ordinary skill in the art would have been motivated to modify the reference in order to improve risk scoring.

As per claim 42, Templeton teaches wherein transmitting the acceptance or decline decision to the merchant is based at least in part on the additional information (see column 5, line 21-34).

Claim 43 is rejected for the same reasoning as in claim 2.

Claim 44 is rejected for the same reasoning as in claim 4.

Claim 45 is rejected for the same reasoning as in claim 3.

Claim 46 is rejected for the same reasoning as in claim 5.

Claim 47 is rejected for the same reasoning as in claim 8.

Claim 48 is rejected for the same reasoning as in claim 9.

Claim 49 is rejected for the same reasoning as in claim 6.

Claim 50 is rejected for the same reasoning as in claim 7.

Claim 10-12, 16, 20, 21, 38-40, and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 5,679,940 to Templeton, in view of Templeton et al. (Pub. No.; US 2003/0130919) and Melchior et al. (Pub. No.: US 2002/0178021), and further in view of Nichols et al (Pub. No.: US 2002/0088849).

Art Unit: 3694

As per claim 10, Templeton does not teach the check is a credit card, wherein the risk assessment engine evaluates the risk of accepting the credit card.

Nichols teaches the check is a credit card, wherein the risk assessment engine evaluates the risk of accepting the credit card (see abstract, and paragraph 0032 and 0033; Nichols teaches a similar risk assessment device similar to Templeton's, and Nichols further teaches the invention can support the use of credit card instead of a check).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to use credit card instead of check, wherein the risk assessment engine evaluates the risk of accepting the credit card.

One of ordinary skill in the art would have been motivated to modify the reference in order to effectively differentiate between good and bad payment.

As per claim 11, Templeton teaches wherein the transmitted transaction information comprises at least one of the purchase amount, an identification of the merchant, and credit card identification information related to the customer (see column 4, line 59-67, and column 10, line 59-67, and column 11, line 1-8).

As per claim 12, Templeton teaches wherein the credit card comprises a magnetic strip, and the credit card identification information comprises magnetically stored digital information that is obtained from the magnetic strip on the credit card (see column 10, line 18-31).

Claim 16 is rejected for the same reasoning as claim 10.

As per claim 20, Templeton does not teach the payment identification information includes an OCR code of the payment.

Nichols teaches the payment identification information includes an OCR code of the payment (see paragraph 0032; Nichols teaches using OCR equipment to extract data regarding to the check)

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include an OCR code of the payment.

One of ordinary skill in the art would have been motivated to modify the reference in order to provide more methods for extracting payment data.

As per claim 21, Templeton does not wherein the payment identification information includes an image of the payment.

Nichols teaches the payment identification information includes an image of the payment (see paragraph 0009 and 0035).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include an image of the payment in payment identification information.

One of ordinary skill in the art would have been motivated to modify the reference in order to provide more information for verifying the payment.

Claim 38 is rejected for the same reasoning as in claim 10.

Claim 39 is rejected for the same reasoning as in claim 11.

Claim 40 is rejected for the same reasoning as in claim 12.

Claim 51 is rejected for the same reasoning as in claim 10.

Claim 52 is rejected for the same reasoning as in claim 11.

Claim 53 is rejected for the same reasoning as in claim 12.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAO FU whose telephone number is (571)270-3441. The examiner can normally be reached on Mon-Fri/Mon-Thurs 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3694

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hao Fu/  
Examiner, Art Unit 3696

Hao Fu  
Examiner  
Art Unit 3696

/THOMAS A DIXON/  
Supervisory Patent Examiner, Art Unit 3694

Mar-08